UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

HOUSE OF BRYANT PUBLICATIONS, LLC)	
Plaintiff,)	
V.)	U.S. District Court No. 3:14-cv-93 (Varlan / Guyton)
CITY OF ROCKY TOP, TENNESSEE;)	,
ROCKY TOP TENNESSEE MARKETING)	
AND MANUFACTURING CO.; TIM ISBEL;)	
BRAD CORIELL; MARK SMITH; MICHAEL)	
LOVELY; and CARL "BUDDY" WARREN,)	
)	
Defendants.)	

RESPONSE TO PROPOSAL AND STATUS REPORT ON MEDIATION EFFORTS SUBMITTED INDEPENDENTLY BY COUNSEL FOR HOUSE OF BRYANT AND PROPOSAL BY ROCKY TOP TENNESSEE MARKETING AND MANUFACTURING CO., TIM ISBEL, BRAD CORIELL, MARK SMITH AND MICHAEL LOVELY

Plaintiff House of Bryant ("HOB") advocates Mr. Alexander for the role of mediator in this matter. Unfortunately, Defendants Rocky Top Tennessee Marketing and Manufacturing Co., Tim Isbel, Brad Coriell, Mark Smith and Michael Lovely (collectively, "RTDs") do not share this view, and firmly believe Judge Echols would be better equipped to mediate this matter.

It appears that Mr. Alexander has an admirable amount of experience in the legal field. He may even have experience in the realm of trademark law. However, it is of some note that Mr. Graham, trial counsel for the RTDs, has been practicing law for over thirty consecutive years, and that Mr. Alexander graduated law school before Mr. Graham was even born.

Notwithstanding Mr. Alexander's experience, the RTDs believe Judge Robert L. Echols is more appropriately experienced and better credentialed to mediate the dispute before this Court.

House of Bryant contends, "with all due respect, the availability of Mr. Alexander is a bit of good fortune that should not be wasted." Following this statement, House of Bryant seems to imply that the RTDs preference for a mediator who served as a United States District Judge for a number of years, has presided over numerous intellectual property ("IP") disputes, and who has mediated many IP disputes somehow indicates "yet another effort by Defendant Developer to delay anything that might resolve this case." This statement by counsel for House of Bryant is not understood.

It is not clear how the RTDs' preference for an experienced federal Judge with experience in trademark matters and an excellent reputation as a mediator could be indicative of an effort to delay conclusion of these proceedings, especially since it was HOB that sought a stay of the case and/or continuance, a move that was resisted by the RTDs.

Instead, RTDs simply believe the availability of Judge Echols is a bit of good fortune that should not be wasted. Judge Echols served as Judge and Chief Judge on the U.S. District Court for the Middle District of Tennessee for more than eighteen years, where he oversaw numerous IP cases. Additionally, since his retirement from the bench, Judge Echols has mediated a number of IP disputes. It is not seen how the circumstance of Judge Echols' availability indicates an effort by the RTDs to delay this case. Perhaps HOB intended to cast some different aspersion toward the RTDs, and they just confused their hyperbole.

Notwithstanding the above, the RTDs firmly believe Judge Echols is better suited to mediate the issues before this Court and respectfully request this Court to order that Judge Echols serve as mediator. The RTDs also respectfully request this Court to order that mediation is to take place at the office of the law firm Watson, Roach, Batson, Rowell & Lauderback, 900 South Gay Street, 1500 Riverview Tower, Knoxville, TN 37902 on December 7th, 2015, as well

as the following day December 8th, if necessary. It is further requested that this Court order that the cost of the mediation should be split between the parties and that whatever retainer the mediator requires be forwarded to him at least twenty (20) days before the mediation, unless the respective party's attorneys agree in writing to guarantee his or her client's portion of the mediation fee. And the Parties, together with the mediator, should all agree on the procedure by which the mediation will be conducted, with any dispute or disagreement in this regard resolved by Judge Echols.

Respectfully submitted,

s/Mark S. Graham

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CERTIFICATE OF SERVICE

I hereby certify that on this, the 27rd day of October 2015, a copy of the foregoing Response to Proposal and Status Report on Mediation Submitted Independently by Counsel for House of Bryant was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

s/Mark S. Graham Mark S. Graham